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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 SIU MAN WU,

9 Plaintiff,

10 v.

11 MARK GASTON PEARCE,¹ *et al.*,

12 Defendants.

No. C11-0860RSL

ORDER OF CLARIFICATION

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14 This matter comes before the Court on “Plaintiff’s Request for a More Specific
15 Sentence About Court’s Ruling on Defendants’ Motion to Dismiss.” Dkt. # 37. Plaintiff seeks
16 clarification regarding whether the dismissal of his civil rights and Bivens claims was with or
17 without prejudice. The answer to the question is complicated by the fact that this litigation is on-
18 going.


19 The Court dismissed the plaintiff’s civil rights and Bivens claims because he failed
20 to allege facts (as opposed to speculation or conclusions) that could support a finding of liability
21 under those theories. If plaintiff now has evidence to support these claims, he may file a motion
22 to amend the complaint to add the necessary factual allegations. To that extent, the dismissal is
23 without prejudice. If, however, no additional facts can be alleged that would show that
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26 ¹ Mark Gaston Pearce has been substituted for his predecessor, Wilma B. Liebman, as Chairman
of the National Labor Relations Board (“NLRB”), pursuant to Fed. R. Civ. P. 25(d).

ORDER OF CLARIFICATION

1 defendant acted under color of state law or engaged in a conspiracy that was motivated by class-
2 based discriminatory animus, the dismissal will eventually preclude further litigation of these
3 claims.

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5 Dated this 11th day of May, 2012.

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7 Robert S. Lasnik

8 United States District Judge
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